

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.17582 of 2015(O&M)
Date of Decision: **August 24, 2015**

Bhram Dutt

...Petitioner

Versus

Registrar Co-Op Societies Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: - Mr.Ashok Kumar Sehrawat, Advocate
for the petitioner.

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HARINDER SINGH SIDHU, J. (Oral)

The present Writ Petition has been filed seeking a direction to quash the transfer order dated 10.08.2015 (Annexure P-1), whereby, the petitioner, who is serving as L.A.O in the Haryana State Cooperative Agriculture & Rural Development Bank Limited, has been transferred from Jhajjar to Dadri.

Learned counsel for the petitioner has contended that the impugned order has been passed against the transfer policy (Annexure P-5) of the Government of Haryana. It is also contended that after retirement from the Indian Air Force, the petitioner settled at Rohtak with his family and joined the respondent – Bank as L.V.O. in June, 2008. Vide order dated 1.11.2010 (Annexure P-2), he was transferred from Kalanaur to Bahadurgarh, which transfer was later cancelled. Again vide

order dated 22.8.2012 (Annexure P-3), he was transferred from Kalanur to Ateli, but later on, he was adjusted against vacancy at Jhajjar.

It is the case of the petitioner that since his wife is posted as Sanskrit Teacher at Village Chhara, District Jhajjar, therefore, his case is covered by the Government of Haryana Policy (Annexure P-5), which provides that *'when husband and wife are both in Haryana Government service, they may generally be posted at same or nearby stations as far as possible.'*

Having heard Learned counsel for the petitioner and going through the paper-book, this Court does not find merit in the contentions.

The petitioner has not alleged any malafide against the respondent authorities. Nor can from the instances of transfer as indicated in the petition, any bias or arbitrariness be inferred. In the absence of any allegation of malafide in a case like the present one where a transfer order is under challenge, there is hardly any scope for interference at the hands of this Court, while exercising its extra-ordinary writ jurisdiction under Article 226/227 of the Constitution of India. So far as the Policy Annexure P-5 is concerned, though Learned counsel for the petitioner has not shown as to how the said policy is applicable to the employees of the respondent – Bank, yet, the tenor of the said policy itself says that the State shall generally give posting to the serving couple at

same or nearby stations as far as possible. It neither restricts the State nor put a complete bar on it to transfer them at separate places, if the exigency so requires. Further these administrative guidelines do not confer any legally enforceable rights which can be enforced through a Court of law.

It has been repeatedly emphasized by the Hon'ble Supreme Court. that transfer is not a punishment, rather it is an exigency of the service. In this regard the observations of the Hon'ble Supreme In **State of U.P. and others Vs. Gobardhan Lal, 2004 (2) RSJ 604** may be usefully referred to:

“7. It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, Civil Writ Petition No. 15703 of 2014 (O&M) 4 he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to

approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.”

Further, it is again neither pleaded nor argued case on behalf of the petitioner that the impugned transfer order was passed by an authority not competent to pass the order or that any of the provisions of law were violated, while passing the impugned order.

Hence, finding no case for interference in the impugned order, the petition is dismissed.

August 24, 2015

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(HARINDER SINGH SIDHU)
JUDGE